

**YANKEE SPRINGS TOWNSHIP
ZONING BOARD OF APPEALS
MEETING**

**Tuesday, November 13, 2018
7:00 PM
Yankee Springs Township Hall
284 North Briggs Road, Middleville, Michigan 49333**

MINUTES

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Meeting called to order at 7:00 PM by David VanHouten, Acting Meeting Chairman.

Roll Call: Present: Pat Jansens, Dave VanHouten (Vice Chair), Ron Heilman- Secretary, John Frigmanski, Mike Boysen. **Absent with Notice:** Jake Welch, Chairman

PLEDGE OF ALLEGIANCE –

Also Present: Rebecca Harvey, Professional Planner

Staff : Absent with notice: Eric Thompson, PCI. **Present:** Sandy Marcukaitis

Visitors: 7 - not including staff present.

REPORTS FROM REPRESENTATIVES:

Planning Commission: Pat Jansens/Rebecca Harvey reported that the PC is focusing on the private road ordinance which is related to land division topics that have come up. The PC has found there may be other provisions in the ordinance relating to it (private road ordinance/land division) and those are the items that the PC are looking at now. The PC is completed with the Master Plan and lot coverage. R. Harvey explained some of the complexit(ies) that arise with land division, private roads, frontage requirements, and Barry County Road standards. No applications were on the agenda for the October PC meeting. Due to opening day, (Deer season) the Nov. 15th Regular meeting of the PC is cancelled. Discussion will resume at the December meeting.

Board of Trustees: M. Boysen did not have a comment regarding the Board Of Trustees. This evening will be Mr. Boysen's last meeting, noted Mr. Boysen. M. Boysen does plan on attending future meetings, however.

APPROVAL OF MINUTES:

Motion by Heilman with support from Boysen to approve ZBA meeting minutes of October 9, 2018 as presented. All ayes. MOTION CARRIED.

PUBLIC COMMENT: Motion by Boysen with support from J. Frigmanski to open public comment for non-agenda items – All Ayes. Motion Carried. NO Comments at this time.

NEW BUSINESS:

ZBA 18-09-07 Parcel ID 08-16-045-006-00 Property address 702 Perch Cove Ct., Middleville, MI 49333

a. A request by D.K. Homes on behalf of property owners Ron & Renee Rodenhouse, for a variance to construct a single-family dwelling that fails to meet the lakefront setback standard.

CALL TO ORDER

ROLL CALL

PLEDGE

REPORTS FROM REPRESENTATIVES

APPROVAL OF MINUTES

PUBLIC COMMENT

NEW BUSINESS

b. The required lake front setback for this parcel, located in the Residential Lakefront District (RLF) is 52'6 per Article XII – Sec. 12.4.3 (2)

Public hearing opened at 7:15 p.m. :

Motion by Heilman with support from Boysen to open public hearing at 7:15. All ayes.
MOTION CARRIED.

Ben DeKleine, of Barlow Lake Rd., (of DK Homes/Builder) presented the request of R. & R. Rodenhouse of 702 Perch Cove Ct. (Barlow Lake). B. DeKleine noted that he doesn't want to block the view of residents of 672 Perch Cove which reside just to the west. The proposed home is designed as to not block the view. There's a cottage there now, on the proposed building site, with a setback of 36'. Owners would like to build a permanent home on the site of their cottage.

A rental cottage (Bob Cisler's) is 86' off the water (lakefront) that is driving the numbers and skewing the setback average.

Dave Morren– 622 Arhana Crest – commented that he knows about the setback variance request, and would like to know if there are any other variances to put this house up. His concerns were impervious surface, square footage, and the height.

In reference to Mr. Morren's question, it was noted that 23 ft. is the height of the peak of the ranch home that is planned.

Heilman mentioned comments made by Perch Cove neighbors at the last meeting regarding this variance request (tabled to this meeting) and a comment was made regarding parked cars after the house is built. The resident who commented was concerned about cars blocking the road, not allowing emergency vehicles to get through.

Ben DeKleine commented that the Rodenhouse's own a parcel on the west side of the proposed site- as well. So there will be property to park cars on; they won't be blocking the road.

Jay DeKleine commented on the overall structure sitting off the road a little further and in the same envelope as the cottage "and the deck and the sprawl that's there... It's just when you remove the structure, you have to meet the new criteria. So if we save one wall, build an inferior building, then we could, for lack of better words, scam the system. That's not the intent. It's to work, trying to find a logical path here. We can save a wall and build actually slightly bigger both ways, towards the road and towards the lake than what we are now. But we're saying 'Hey can we just start over fresh? And not work around that system.'We're off the road further and we're no closer to the lake with the overall structure. It's just when you remove it, now you fall into the new rules of checking all the neighbors (setbacks from lake)"... J. DeKleine noted that one of the neighbors changed the setback average with their setback being a lot further back from the lake.

Heilman noted that he didn't think "keeping one wall" was valid anymore.

CLOSE PUBLIC HEARING - at 7:27 P.M.

Motion by Heilman with support from Boysen to close public hearing at 7:27 p.m. All ayes.
MOTION CARRIED.

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Open Public Hearing
at 7:15 p.m.

CLOSE PUBLIC

HEARING - at 7:27

P.M.

BOARD DELIBERATION took place.

R. Harvey commented on the lakefront setback ordinance as requested by M. Boysen.

Ron Heilman referenced and reviewed the items of the following Practical Difficulty Test:

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PRACTICAL
DIFFICULTY TEST

- B. Non-use Variance: A non-use variance may be allowed by the Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:
1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - a. exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter; or
 - b. by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
 - c. by reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
 - d. any other physical situation on the land, building or structure deemed by the Board of Appeals to be extraordinary,
 2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonable practical the formulation of a general regulation for such conditions or situations.
 3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 5. The variance will not impair the intent and purpose of this Ordinance.
 6. That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.

The ZBA reviewed the six standards of the Practical Difficulty test in relation to the variance request(s) this evening.

Motion by R. Heilman with support from Boysen to deny variance request (for Parcel # 08-16-045-006, 702 Perch Cove Ct., Middleville, MI 49333, owners R. & R. Rodenhouse to construct a single-family dwelling that fails to meet the lakefront setback standard) based on the fact that Practical Difficulties (test) haven't been met and there's no criteria to allow a variance to the lakefront setback requirement.. ROLL CALL VOTE: Frigmanski: YES, Jansens: YES, Boysen: YES, Heilman: YES, VanHouten: NO. Yes: 4, No: 1, MOTION CARRIED.

Heilman recommended going to the Planning Commission to ask about it (lakefront setback). M. Boysen commented prior to the vote regarding assisting DK Builders with verbiage to the PC, not just turning them (DK) loose to the Planning Commission. R. Harvey commented on the Planning Commission being the body that does the legislation. R. Harvey commented that the PC would definitely be interested in the "why" this is being forwarded to them. R. Harvey noted that the PC relies on the ZBA to be their eyes and ears as to how things are working. Harvey commented, "The ZBA isn't in the position to say they couldn't meet the variance criteria, but we think you should take this out so that this applicant can do what he desires to do."

P. Jansens commented that the ZBA had sent items to the PC previously, and the PC has changed some things in the past.

Frigmanski questioned how many homes have 90 ft. setbacks in the township.

R. Heilman will go to the PC meeting and comment regarding this matter.

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ZBA 18-10-09 Parcel ID 08-16-029-007-00 Property address 11067 Gun Lake Rd., Middleville, MI 49333 –

a) A request by Michael & Melinda Cutlip, property owners for a variance to construct an addition to detached accessory structure that fails to meet the side yard setback standard.

b) The required side yard setback for this parcel is, located in the Gun Lake Residential Lakefront District (GLRLF) is 10’ per Article XII – Section 12.4.2

MOTION by Heilman with support from Boysen to OPEN THE PUBLIC HEARING at 8:04 p.m. All Ayes. MOTION CARRIED.

Michael Cutlip of 11067 Gun Lake Rd., presented his request. The Cutlip’s came to the ZBA with the request, but were unable to secure a builder at that time.

OPEN PUBLIC
HEARING AT 8:04
P.M.

Both neighbors to the west re-submitted letters of support per M. Cutlip.

Heilman commented that he called Eric Thompson from PCI. The Cutlip’s didn’t have a building permit, because they were unable to secure a builder. It was noted that they have made no modifications to current plans. Mr. Cutlip commented that they’ve applied for the permit and have followed E. Thompson’s recommendation.

Harvey mentioned having a one year limit on a variance. Harvey noted reasons for this requirement. Harvey noted that the proposed addition is not on the plans. Mr. Cutlip commented that the footprint is on the plans. 24’ x 36’ is the addition proposed. Mr. Cutlip sketched the addition out for Ms. Harvey.

Heilman confirmed that Frigmanski, VanHouten and Heilman visited the proposed project site.

The Cutlips commented that they have taken down the trees that they’ve had to take. The driveway has been repositioned.

Mrs. Cutlip commented that they are making an L-shape with parking facing east.

With no more questions, Motion by Heilman with support from Boysen to close public hearing at 8:21 p.m. All ayes. MOTION CARRIED.

CLOSE PUBLIC
HEARING at 8:21 p.m.

The ZBA reviewed the minutes of ZBA meeting 10/10/17 at which time the Cutlip’s first presented their variance request.

Ron Heilman read the Non-use Variance section of the Practical Difficulty Test (also used for the request of D.K. Builders above)-

The following information was reviewed tonight, but came from the Oct. 10, 2017 minutes:

Findings of Facts of the six (6) points/conditions of the Non-Use Variance Section were: (by R. Heilman)

1. Regarding exceptional or extraordinary circumstances, Heilman noted with the trees and the way the lot is set up, it would be difficult for the Cutlip's to put in a garage without it looking like an added piece. It would be more aesthetic with the variance granted.
2. Heilman noted existing non-conformity with this specific piece of property and that it follows the guidelines set in #2.
3. Difficulty of parking due to the arrangement of the house and trees on property was noted.
4. Neighbors on both sides commented that the variance would not be a detriment to their properties.
5. Heilman commented that the variance requested wouldn't impair the intent and purpose of the ordinance.
6. Lastly, R. Heilman noted that the Cutlip's didn't put the garage in to have it 4.5 ft. from the lot line.

R. Heilman commented, "In reality, all six (6) of the practical difficulty tests, there's something within each one of them that meets the criteria." (From 10/10/17 meeting).

D. VanHouten agreed with Heilman and noted existing house is already at a 4.5 ft. setback and is not impairing the neighbors. (Comment from 10/10/17 meeting).

It was noted at tonight's meeting that some trees have since come down and the drive has been altered since the 10/10/17 meeting.

Motion by Heilman with support from Boysen to grant appeal (variance request) (ZBA 18-10-09 Parcel # 08-16-029-007-00 at 11067 Gun Lake Rd., Middleville, MI) and allow Mr. & Mrs. M. Cutlip to continue with their project, get the garage up and get a permit as indicated with their drawings and based on findings of 10/10/17. Heilman noted that trees and drive are no longer issues. ROLL CALL VOTE: Frigmanski: Yes, Jansens: Yes, VanHouten: Yes, Heilman: Yes, Boysen: Yes. Yes: 5, No: 0, MOTION CARRIED.

Prior to the Roll call vote:

R. Harvey commented that the ZBA did not have to find that all six findings are present. "You weigh them much like a court does. And so it's possible to only find that a couple of them are relevant and accurate.It's always better to make sure that the findings that you have are solid. Even if it's just a couple of them. Because if they have a heavy weight, for your finding, it certainly justifies the grant."

Harvey noted that the ZBA had a solid finding (on this request) on (1) no negative impact on adjacent properties, (2) a positive finding on substantial justice in that it is similar to setbacks in the surrounding area. "In terms of reasonableness, (3) in terms of the continuation of an existing building line, I would say those three are relevant," added Harvey.

OTHER SUCH BUSINESS/OLD BUSINESS:

D. VanHouten requested that if possible, in 2019, changing the November ZBA meeting as not to conflict with the Deer season "Holiday" (November 15th).

R. Heilman / Pat Jansens will go to the December PC meeting regarding setback issue of the DeKleine's.

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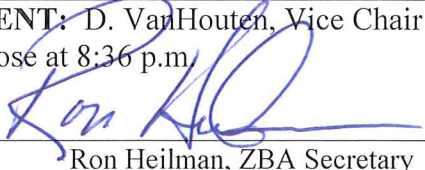
MOTION to Approve Variance Request of M. Cutlip, 11067 Gun Lake Rd.

OTHER SUCH BUSINESS

J. Frigmanski, ZBA asked if Yankee Springs was allowed to have two homes on one residential lot. "No," responded Ms. Harvey. Discussion occurred. Guest houses were mentioned.

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ADJOURNMENT: D. VanHouten, Vice Chair and tonight's Acting Chairman, brought the meeting to a close at 8:36 p.m.

Approved by:  Date: 4/9/19
Ron Heilman, ZBA Secretary

Approved by: _____ Date: _____
Janice C. Lippert, Township Clerk

Respectfully submitted by:
Deb Mousseau
Recording Secretary, 11/13/18

ADJOURNMENT